

REMARKS

The Restriction Requirement is based on the assumption that the inventions listed as Groups I-III lack the same or corresponding special technical feature. The Examiner indicates that the special technical feature of Group I is a MAPC comprising an exogenously-incorporated sequence. She refers to Hatada et al. as disclosing this feature so that the Applicants' claims "lack novelty or inventive step over the disclosed hematopoietic stem cells comprising HPRT, and does not make a contribution over the prior art." Therefore, she concludes that the technical feature cannot link the invention as a whole to form a general inventive concept. Applicants respectfully point out that a MAPC can in no way be construed as a hematopoietic stem cell. These cells are clearly shown to be non-embryonic stem cells having the ability to differentiate into cell types of all three embryonic germ layers. A hematopoietic stem cell can only form hematopoietic differentiated progeny. A hematopoietic stem cell, therefore, can only form cells of mesodermal phenotype. Accordingly, the Hatada reference does not disclose the claimed invention. Therefore, Applicants request that the restriction requirement be withdrawn and all claims examined together.

Applicants do not believe that any fees are due with this filing. However, the Commissioner is hereby authorized to charge any fees required, including the fee for an extension of time, or to credit any overpayment to Deposit Account 20-0809. The applicant(s) hereby authorizes the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this application which requires an extension of time as incorporating a request for such an extension.

Respectfully submitted,



Anne Brown
Reg. No. 36,463

Date: February 11, 2009
THOMPSON HINE LLP
P.O. Box 8801
Dayton, Ohio 45401-8801
(216) 566-8921

11438241.1